

other authorization is required, securing such a permit or other authorization, issued in compliance with any applicable law, including requirements of Title V of FLPMA and the National Environmental Policy Act. In the event a permit is deemed necessary, the Department will make its best effort to process requests for access under Title V of FLPMA promptly and cooperatively.

7. In order to facilitate the Acknowledgment Process in Utah, the Department hereby declares that the requirements for determinations under the "Interim Departmental Policy on Revised Statute 2477 Grant of Right-of-Way for Public Highways; Revocation of December 7, 1988 Policy," dated January 22, 1997, shall be inapplicable to acknowledgment requests submitted in accordance with this MOU. While the 1997 Interim Policy shall still apply to all other requests for right-of-way acknowledgment that are not submitted pursuant to this MOU, the Department recognizes that other interested states and counties may wish to submit proposed MOU's for consideration by the Department that are generally consistent with the principles set out in this agreement.

8. The State, Utah counties and the Department shall work cooperatively to minimize trespass situations on roads that are outside the scope of this MOU.

9. It is understood that the State and counties have evidence regarding the existence of many roads, including those in which they assert no ownership interest. They may choose to use this evidence for other purposes, such as to illustrate whether the land through which the roads run have wilderness-like characteristics or resource values. The Acknowledgment Process will take place independently and without prejudice to any other use of this evidence or other valid existing rights, if any.

10. After submitting a road to the Acknowledgment Process, the State or a county may withdraw it from consideration at any time prior to the actual recording of the disclaimer issued by the Department, for any reason, without prejudice. The submission of a road to the Acknowledgment Process does not prejudice the State's or a county's valid existing rights regarding that road under the law.

11. The Department shall execute any implementing agreements with the State of Utah or Economy Act agreements as appropriate with other federal agencies, as required by applicable statutes and regulations, when effectuating the purposes of this MOU.

12. Activities under this MOU and any implementing agreements shall be conducted in accordance with mutually-agreed upon plans for the classification of information by the State, for the review and release of information, and for cooperation in the preparation of any and all reports to Congress. The release of any information by the Department under this MOU will be in accordance with applicable statutes and regulations.

13. Any expenditure of appropriated funds by the Department will be developed in specific agreements authorized by applicable statutes and regulations and is subject to the availability of funds. This MOU shall not be used to obligate or commit funds or as the basis for the transfer of funds.

14. This MOU shall not be construed as creating any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the State of Utah, Utah counties, the United States, its agencies, its officers, or any other person. This MOU shall not be construed to create any right to judicial review involving the compliance or non-compliance of the State of Utah, Utah counties, the United States, its agencies, its officers, or any other person with the provisions of this MOU.

Signed 4-9-03
Gale A. Norton
Secretary
United States Department of the Interior.

Signed 4-9-03
Michael O. Leavitt
Governor
State of Utah.

For purposes of this MOU, the terms "road" and "highway" shall be deemed synonymous.

Mr. CARPER. Will the Senator from Utah yield briefly?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CARPER. I ask unanimous consent that the Senator from Utah be given 1 additional minute and he yield it to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. Mr. President, I am less familiar with Governor Leavitt's environmental record in Utah than is our colleague Senator HATCH. I have known him for more than a decade. We became Governors together in the same year. We were elected in 1992. We know him. We know his family.

I know him to be a thoughtful, decent, caring human being. He is a good manager and a good leader of his State. He has also been a great leader of our Nation's Governors.

I was privileged to serve as Chair of the National Association of Governors at the time he was Vice Chair. He succeeded me as Chair. He is very bright and surrounds himself with excellent people. But what I like best is he is very good at bringing together people with diverse points of view, trying to build consensus. We need that in a lot of areas in our Nation's Capitol these days, and we especially need it with respect to environmental issues. I look forward to voting for his nomination and working with him if he is confirmed.

I thank the Senator for yielding.

Mr. HATCH. I thank my colleague from Delaware. His comments speak volumes as to why we should support Governor Leavitt. I am particularly pleased and grateful for his support in this matter, as I am for the support of the two leaders.

The PRESIDING OFFICER. All time has expired. Under the previous order, the Senate will proceed to a vote on confirmation of the nomination. The question is, Shall the Senate advise and consent to the nomination of Michael O. Leavitt to be Administrator of the Environmental Protection Agency?

Mr. INHOFE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from New Mexico (Mr. BINGAMAN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay".

The result was announced—yeas 88, nays 8, as follows:

[Rollcall Vote No. 412 Ex.]

YEAS—88

Akaka	Dole	Lugar
Alexander	Domenici	McCain
Allard	Dorgan	McConnell
Allen	Ensign	Mikulski
Baucus	Enzi	Miller
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Breaux	Graham (FL)	Nickles
Brownback	Graham (SC)	Pryor
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Byrd	Hagel	Santorum
Campbell	Harkin	Sarbanes
Cantwell	Hatch	Sessions
Carper	Hollings	Shelby
Chafee	Hutchison	Smith
Chambliss	Inhofe	Snowe
Clinton	Inouye	Specter
Cochran	Jeffords	Stabenow
Coleman	Johnson	Stevens
Collins	Kennedy	Sununu
Conrad	Kohl	Talent
Cornyn	Kyl	Thomas
Craig	Landrieu	Voinovich
Crapo	Leahy	Warner
Daschle	Levin	Wyden
DeWine	Lincoln	
Dodd	Lott	

NAYS—8

Boxer	Durbin	Rockefeller
Corzine	Lautenberg	Schumer
Dayton	Reed	

NOT VOTING—4

Bingaman	Kerry
Edwards	Lieberman

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President shall be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2800, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2800) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2004, and for other purposes.

Pending:

DeWine amendment No. 1966, to increase assistance to combat HIV/AIDS.

Byrd amendment No. 1969, to require that the Administrator of the Coalition Provisional Authority be an officer who is appointed by the President, by and with the advice and consent of the Senate.

McConnell amendment No. 1970, to express the sense of the Senate on Burma.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for up to 5 minutes.